



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

January 28, 1948

Hon. E. G. Garvey
County Auditor
Bexar County
San Antonio, Texas

Opinion No. V-487

Re: Authority of the Commissioner's Court to allow the formation of a group life insurance plan for county employees and to authorize the county auditor to make salary deductions and act as trustee of the premiums for such a group plan.

Dear Sir:

We refer to your recent letter to this Department in which you ask the following questions:

"Under the provisions of House Bill No. 420, may, I, as County Auditor, collect and pay premiums on a group insurance plan organized under the provisions thereof by county employees by deducting the premiums therefor from the various county payrolls?"

Section 1 of H. B. 420, Acts of the 50th Leg., R. S., 1947, is in part as follows:

"Section 1. No policy of group life insurance shall be delivered in this State unless it conforms to one of the following descriptions:

"(3) A policy issued to an independent school district, incorporated city, town or village which has assumed control of the public school system within such municipality, State colleges or universities, any association of State employees, any association of State and County employees, any department of the State Government, which employer or association shall be deemed the policyholder, to insure the employees of any such independent school district and of the public school

system of any such municipality, of any such State colleges and universities, of any such department of the State Government, members of any association of State employees, and members of any association of State and County employees for the benefit of persons other than the policyholder subject to the following requirements: . ."
(Emphasis added)

We are of the opinion that H. B. 420, supra, does not apply to an association solely of county employees, since there is nothing in the context to indicate such an intent on the part of the Legislature. To give this effect to the bill we would either have to strike out the words "State and" or construe the word "and" to mean "or". As to the first alternative, we see no reason therefor, nor do we believe the courts would delete those words from the bill in order to bring county employees within its provisions, considering the context of the entire Act. With reference to the second alternative, we realize that the courts have sometimes said that the words "and" and "or" are interchangeable and that one may be substituted for the other if to do so is consistent with legislative intent. However, we find nothing in the context of the bill which evidences such legislative intent.

Since the Act does not provide for the formation of an association of county employees solely, and since it does not contain any provision authorizing the county auditor to collect and pay premiums therefor from the county employees' salaries, you are respectfully advised that in the absence of such authority it is the opinion of this Department that the county auditor cannot collect and pay premiums on such a group insurance plan under the provisions of said Act.

However, such county employees as may be members of an association of State and County employees may be insured under the provisions of this Act. Nevertheless, there are no provisions in the Act whereby the county may pay any part of the premiums of the group policy.

Further, county employees may voluntarily band together as individuals under their inherent rights and secure benefits under the group plan, just the same as if they were included in the bill, except there is no provision for the county to obtain this for them, nor has the county any right to withhold any part of the employees' wages, even with their consent.

We call your attention to H. B. 665, Acts of the 50th

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Leg., R.S., which empowers county employees to combine for the purpose of buying policies of group health, accident, and accidental death insurance. We are enclosing a copy of our Opinion No. V-488, which construes the provisions of said Act.

SUMMARY

The county auditor cannot collect and pay premiums for a group consisting solely of county employees on a group insurance plan under the provisions of H. B. 420, Acts of the 50th Leg., R. S., 1947.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By s/Bruce Allen
Bruce Allen
Assistant

BA:djm:mw:wc

APPROVED:
s/Price Daniel
ATTORNEY GENERAL